

CABLE & WIRELESS, INC.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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Rachel J. Rothstein
Vice President

April 10, 1998

Mr. Richard Metzger
Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RE: **EX PARTE**

In the Matter of Carrier Identification Codes, CC Docket 92-237

Dear Mr. Metzger:

Cable & Wireless, Inc. ("CWI") hereby strongly opposes MCI's request to extend the permissive dialing period beyond the current June 30, 1998 cutoff.¹ The Commission plainly stated that its decision to allow only a minimal permissive dialing period was motivated largely by competitive concerns. Despite early opposition to a minimal transition period, CWI has been able to upgrade its network to allow for 4-digit CICs, and has significantly changed its business plans in anticipation of the Commission's new rules. No doubt, other carriers have undertaken similar measures. The anticompetitive effects of any further extension of the permissive period may significantly impact the ability of carriers with 4-digit CICs to place new dial around products in the market. Any issues MCI and VarTec may have regarding the Standard Intercept Message can be handled quickly and easily by the Commission, without any need to prolong the permissive dialing period. Granting an extension would allow MCI to successfully abuse the regulatory process in order to preserve its position in the dial around market. In short, the industry was granted over seven months to complete the transition. No further delays should be tolerated by the Commission.

CWI had at one time supported a much longer transition from 3-digit to 4-digit CICs. In the company's comments on petitions to reconsider the Commission's Second Report and Order,² CWI supported The Competitive Telecommunications Association's

¹ See *ex parte* letter of Mr. Jonathan Sallet, Chief Policy Counsel, MCI Communications Corporation, to Mr. Richard Metzger, Chief, Common Carrier Bureau, Federal Communications Commission, dated March 17, 1998.

² Second Report and order, CC Docket No. 92-237, FCC 97-125, Released April 11, 1997.

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("CompTel") call for a transition period extending to January 1, 2000. CWI stated that it needed to reprogram automatic dialers, notify customers who have their own customer premises equipment, convert switches to recognize four digit CICs, test these upgrades, and coordinate them with local exchange carriers.

The Commission, balancing public interests with the pro-competitive designs of the Telecommunications Act, decided that a minimal transition period was in the best interests of consumers and competitors.³ The Commission ordered that LEC switches be upgraded to handle 4-digit CICs by January 1, 1998, and provided for a six month permissive dialing period (to end June 30, 1998) during which both 3 and 4-digit CICs could be used. The Commission recognized the need for a transition period during which carriers would educate their customers about changing dialing patterns, prepare their networks, and give IXCs time to coordinate the conversion with LECs. However, the Commission kept the transition period as short as possible, both to minimize the anticompetitive effects of the dialing disparity between 3 and 4-digit CICs, and out of concern that demand for 4-digit CICs would outstrip supply during the transition. CIC consumption, in fact, was cited by the Commission in specifically rejecting MCI's previous request to extend the transition period to February 1999.⁴

Despite the company's prior support of a longer transition period, CWI has ably adapted to the shorter period adopted by the Commission. CWI has used the transition period to redirect its own dial around long distance product, based upon a new 4-digit CIC. To achieve this, CWI has had to upgrade its network to accept the new 4-digit CIC, and coordinate this upgrade with LECs nation-wide. CWI has already begun introducing its new product, using a 7-digit access code.

CWI is launching this new product knowing that it faces a short term competitive disparity, during which other carriers' customers will be able to reach their networks using 5-digit access codes, while the company markets a 7-digit access code. The company made a decision to accept the short-term, minimal competitive disadvantage based upon the current June 30th cut-off date for the permissive dialing period. Any extension of the transition period, however, would effectively block carriers with 4-digit CICs from effectively marketing new dial around products, contradicting the Commission's oft-stated pro-competitive goals in this docket.

Further extension of the permissive dialing period would also do nothing to promote public education on changing dialing patterns. Indeed, CWI's market research for this product found that very few carriers are preparing their customers for the change in dialing patterns. Of course, it could be argued that the permissive dialing period still has 2½ months to run, and that educating the public to changing dialing patterns can still be done in June; but this only highlights that the Commission's original transition period was perhaps too long. Indeed, it seems that MCI has done little to begin educating its customers, based on the television ads it continues to run promoting its 10321 product.

³ Order on Reconsideration, Order on Application for Review, and Second Further Notice of Proposed Rulemaking, CC Docket No. 92-237, FCC 97-386, Released October 22, 1997. Hereinafter Order on Reconsideration.

⁴*Id.*, ¶ 28.

The Commission has also repeatedly affirmed its view that the use of 4-digit CICs only, rather than allowing use of both 3 and 4-digit CICs, will best serve the pro-competitive goals of the Telecommunications Act.⁵ Further, the Commission has also twice refused to allow grandfathering of 3-digit CICs.⁶ MCI's request to extend the permissive dialing period is clearly only an attempt to preserve its own market position at the expense of its competitors, and is virtually an abuse of the regulatory process.

It is clear that the Commission's competitive concerns, outlined in the preceding paragraphs, outweigh MCI's issues concerning the Standard Intercept Message, and thus no extension of the permissive dialing period is warranted. MCI, echoed by VarTec in its letter, claims that most callers hang up upon hearing the Special Information Tones ("SITs") preceding the Message, defeating the informational intent. MCI also claims that the initial sentence of the Message ("Your call can not be completed as dialed.") is anticompetitive. (VarTec's letter also asks the Commission to investigate three LECs that have stated they will not use the Standard Intercept Message.) While CWI does not offer any opinion on either the SITs or the content of the Message, it seems these questions can be easily and quickly resolved without an extension of the permissive dialing period. The Commission's Order on Reconsideration states that LECs must offer a standard intercept message, mutually agreed upon by IXC's and LECs, with the Commission resolving any disputes on the matter.⁷ CWI agrees with the Commission that the public interest lies with most quickly establishing the use of 4-digit CICs only. Further extension of the permissive dialing period is not needed, as there is still plenty of time to resolve any disputes regarding the Message.

For these reasons, CWI strongly opposes MCI's request to extend the permissive dialing period beyond the current June 30, 1998 date. MCI's *ex parte* accuses the Bell Operating Companies of anticompetitive behavior in an effort to maintain domination of the intraLATA market; yet if granted, MCI's extension request would have similarly anticompetitive effects in the dial around market. An extended transition period would cripple the ability of carriers with 4-digit CICs to enter the dial around market, effectively limiting customer choice and preserving MCI market share. CWI has shown that carriers

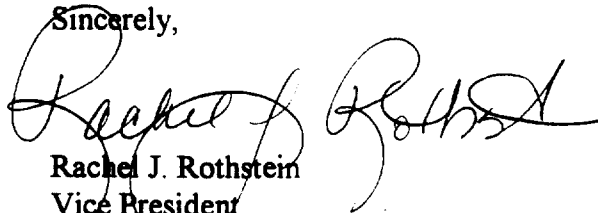
⁵ See Second Report and Order, ¶ 27, and Order on Reconsideration, ¶¶ 20 and 25.

⁶ See Second Report and Order, ¶ 46, and Order on Reconsideration, ¶ 47.

⁷ See Order on Reconsideration, ¶ 26.

are well able to adapt their networks, even launch new products, well within the existing transition period. MCI's request has failed to raise any issue that can not be resolved before the existing transition period ends, and should be summarily denied.

Sincerely,

A handwritten signature in black ink, appearing to read "Rachel J. Rothstein", written over the typed name and title.

Rachel J. Rothstein
Vice President
Regulatory and Government Affairs
Cable & Wireless, Inc.
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